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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,236	12/31/2001	Ralph Anderson	KCC 4779 (K.C. No. 17,026	7312

321 7590 03/17/2003

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER

HALPERN, MARK

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 03/17/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/039,236

Applicant(s)

ANDERSON ET AL.

Examiner

Mark Halpern

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 10,11,23 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-21,24-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5,7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Election/Restrictions

1) Applicant's election of invention reciting species of polyethylene glycol drawn on claims 1-9, 12-21, 24-28, in Paper No. 8, is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 10-11, 22-23, are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2) Claims 1-3, 8-9, 12, 25-28, are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Vinson (6,162,329).

Claims 1-3: Vinson discloses a process wherein papermaking furnish is deposited on a foraminous forming carrier, such as a Fourdrinier wire, to form a tissue paper web. The web is dewatered to a consistency of about 80 percent. Dewatering is performed with suction devices or with blow-through dryers (col. 4, line 55 to col. 8, line 65). Softening agents that include plasticizers are added to the partially dewatered web (col. 8, lines 65-68), said plasticizers include polyethylene glycol of a molecular weight in range from 200 to 2000 (col. 13, lines 19-42). Vinson discloses that the dryer operating temperature is 177 °C (col. 26, lines 1-3). It is inherent thus that the passing heated air dewatering the web is at least above the claimed temperature of above 175 °C, or in the least, it would have been obvious, to one skilled in the art at the time the invention was made, that the heated air passing the web is at least above the claimed temperature of above 175 °C.

Claims 8-9: the percentage of polyethylene glycol in solution is from about 25 percent to about 75 percent (Vinson, col. 13, lines 37-42).

Claim 12: spray applicator 4 is disclosed applying softening composition to the formed tissue web (Vinson, col. 19, lines 1-15, and Figure 1).

Claims 25, 27: a tissue paper product is disclosed above. In the event any differences can be shown for the product of the product-by-process claims 25, 27, as opposed to the product taught by the reference Vinson, such differences would have been obvious to one of ordinary skill in the art as a routine modification of the product in

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the absence of a showing of unexpected results; see also In re Thorpe, 227 USPQ 964 (Fed. Cir. 1985).

Claims 26, 28: the basis weight of the tissue product is in the range from about 10 to about 80 gr/m² (Vinson, col. 4, lines 36-44).

3) Claims 4-5, 13-16, 24, are rejected under 35 U.S.C. 103(a) as being unpatentable over Vinson in view of Kohler (WO 01/18310).

Claims 4-5: Vinson is applied as above for claim 3, Vinson fails to disclose the percentage of the polyethylene glycol in the partially dewatered web. Kohler discloses a process wherein polyethylene glycol of molecular weight less than 800 is added topically to a dewatered paper web as a surface finisher (Abstract, and pg. 6, lines 17-18). The polyethylene glycol is added in amounts from about 0.3 percent (Example 2, pg 21) to about 14 percent (Example 1, pg 19). It would have been obvious, to one skilled in the art at the time the invention was made, to combine the teachings of Vinson and Kohler, because such a combination would expand the application of polyethylene glycol as a softener in the design of Vinson.

Claims 13, 16: Vinson discloses a process wherein papermaking furnish is deposited on a foraminous forming carrier, such as a Fourdrinier wire, to form a tissue paper web. The web is dewatered to a consistency of about 80 percent. Dewatering is performed with suction devices or with blow-through dryers (col. 4, line 55 to col. 8, line 65). Softening agents that include plasticizers are added to the partially dewatered web (col. 8, lines 65-68), said plasticizers include polyethylene glycol (col. 13,

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lines 19-42). Vinson fails to disclose the percentage of the polyethylene glycol in the partially dewatered web. Kohler discloses a process wherein polyethylene glycol is added topically to a dewatered paper web as a surface finisher (Abstract, and pg. 6, lines 17-18). The polyethylene glycol is added in amounts from about 0.3 percent (Kohler, Example 2, pg 21) to about 14 percent (Kohler, Example 1, pg 19). It would have been obvious, to one skilled in the art at the time the invention was made, to combine the teachings of Vinson and Kohler, because such a combination would expand the application of polyethylene glycol as a softener in the design of Vinson.

Claims 14-15: the polyethylene glycol molecular weight is in range from 200 to 2000 (Vinson, col. 13, lines 19-42).

Claim 24: spray applicator 4 is disclosed applying softening composition to the formed tissue web (Vinson, col. 19, lines 1-15, and Figure 1).

4) Claims 6-7, are rejected under 35 U.S.C. 103(a) as being unpatentable over Vinson in view of Ploetz (3,779,791). Vinson is applied as above for claim 3, Vinson fails to disclose the temperature range of heated air from about 190 to about 210 °C. Ploetz discloses a process of topically applying polyethylene glycol to a formed paper sheet for the purpose of sterilization and heating said paper to a temperature of 200 °C (col. 2, lines 1-29). It would have been obvious, to one skilled in the art at the time the invention was made, to combine the teachings of Vinson and Ploetz, because such a combination would by increasing the drying temperature reduce the overall drying time in the design of Vinson.

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5) Claims 17-19, 20-21, are rejected under 35 U.S.C. 103(a) as being unpatentable over Vinson in view of Kohler, and further in view of Ploetz.

Claims 17-19: Vinson in view of Kohler is applied as above for claim 15, Vinson in view of Kohler fails to disclose the temperature range of heated air from about 190 to about 210 °C. Ploetz discloses a process of topically applying polyethylene glycol to a formed paper sheet for the purpose of sterilization and heating said paper to a temperature of 200 °C (col. 2, lines 1-29). It would have been obvious, to one skilled in the art at the time the invention was made, to combine the teachings of Vinson, Kohler and Ploetz, because such a combination would by increasing the drying temperature reduce the overall drying time in the design of Vinson.

Claims 20-21: the percentage of polyethylene glycol in solution is from about 25 percent to about 75 percent (Vinson, col. 13, lines 37-42).

Conclusion

6) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Halpern whose telephone number is 703-305-4522. The examiner can normally be reached on Mon-Fri, (9:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 703-308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7718 for regular communications and 703-305-3599 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

A handwritten signature in black ink, appearing to read "M. Halpern". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mark Halpern
Patent Examiner
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March 15, 2003